

IN THE CLAIMS

Please amend the claims as follows:

1. (currently amended) An oil-cooked or baked potato ~~potatoes each of which~~ comprises 3 to 50 wt.% of an oil or fat composition comprising 2 wt.% or less of a monoglyceride and 15 wt.% or greater but less than 50 wt.% of a diglyceride having, as a constituent fatty acid, 15 to 100 wt.% of an  $\omega$ 3 unsaturated fatty acid having less than 20 carbon atoms.
2. (original) The oil-cooked or baked potato of claim 1, wherein said  $\omega$ 3 unsaturated fatty acid having less than 20 carbon atoms is  $\alpha$ -linolenic acid.
3. (currently amended) The oil-cooked or baked potato ~~potatoes~~ of claim 1, wherein said oil-cooked potato ~~is potatoes are~~ selected from the group consisting of potato chips or fried potatoes and a mixture thereof.
4. (currently amended) The oil-cooked or baked potato ~~potatoes~~ of claim 1, wherein said oil or fat composition contains 20 to 40% of said diglyceride.
5. (currently amended) The oil-cooked or baked potato ~~potatoes~~ of claim 1, wherein said  $\omega$ 3 unsaturated fatty acid having less than 20 carbon atoms is present in an amount of 20 to 80% by weight.
6. (currently amended) The oil-cooked or baked potato ~~potatoes~~ of claim 1, wherein at least 70% of all of said constituent fatty acids of said diglyceride are unsaturated fatty acids having 3 or less carbon-carbon double bonds.

7. (currently amended) The oil-cooked or baked potato ~~potatoes~~ of claim 1, wherein said oil or fat composition further comprises an antioxidant.

8. (withdrawn) A method of preparing an oil-cooked or baked potato comprising heating a potato in contact with an oil or fat composition, wherein said oil or fat composition comprises 2 wt.% or less of a monoglyceride and 15 wt.% or greater but less than 50 wt.% of a diglyceride having, as a constituent fatty acid, 15 to 100 wt.% of an  $\omega$ 3 unsaturated fatty acid having less than 20 carbon atoms.

9. (new) The oil-cooked or baked potato of claim 1, wherein at least 70% of all of said constituent fatty acids of said monoglyceride are unsaturated fatty acids having 3 or less carbon-carbon double bonds.

10. (new) The oil-cooked or baked potato of claim 1, wherein said potato is an oil-cooked potato comprising said oil or fat composition in an amount of 3 to 50% by weight.

11. (new) The oil-cooked or baked potato of claim 1, wherein said potato is an oil-cooked potato comprising said oil or fat composition in an amount of 5 to 40% by weight.

12. (new) The oil-cooked or baked potato of claim 1, wherein said potato is an oil-cooked potato comprising said oil or fat composition in an amount of 10 to 35% by weight.

13. (new) The oil-cooked or baked potato of claim 1, wherein said potato is a baked potato comprising said oil or fat composition in an amount of 5 to 40% by weight.

14. (new) The oil-cooked or baked potato of claim 1, wherein said potato is a baked potato comprising said oil or fat composition in an amount of 10 to 30% by weight.

15. (new) The oil-cooked or baked potato of claim 1, wherein said potato is a baked potato comprising said oil or fat composition in an amount of 7 to 25% by weight.

16. (new) The oil-cooked or baked potato of claim 1, wherein said potato is a baked potato comprising said oil or fat composition in an amount of 7 to 18% by weight.

17. (withdrawn) The method of claim 8, wherein said potato is selected from the group consisting of raw potato and mashed potato.

18. (withdrawn) The method of claim 8, wherein said heating is by cooking said potato is said oil or fat composition.

19. (withdrawn) The method of claim 8, wherein said heating is by baking said potato in contact with said oil or fat composition.

### SUPPORT FOR THE AMENDMENT

Support for claim 9 is found on page 5, lines 3-6 of the specification. Support for claims 10-12 is found on page 7, lines 18-19 of the specification. Support for claims 13-14 is found on page 7, lines 20-21 of the specification. Support for claims 15-16 is found on page 7, lines 22-23 of the specification. Support for claim 17 is found on page 6, lines 6-11 of the specification. Support for claim 18 is found on page 7, lines 5-10 of the specification. Support for claim 19 is found on page 6, lines 16-18 of the specification. No new matter would be added to this application by entry of this amendment.

Upon entry of this amendment, claims 1-19 will now be active in this application with claims 1-7 and 9-16 being under active consideration.

### REQUEST FOR RECONSIDERATION

The present invention is directed to an oil-cooked or baked potato.

Applicants wish to thank Examiner Becker for the helpful and courteous discussion held with their U.S. representative on April 13, 2004. At that time, Applicants' U.S. representative argued that the cited reference failed to disclose or suggest an oil-cooked or baked potato in which the oil contained 15-100% by weight of an  $\omega 3$  unsaturated fatty acid having less than 20 carbon atoms. The following is intended to expand upon the discussion with the Examiner.

Oil cooked or oil baked potatoes are very popular in American diets, often in the form of potato chips and fried potatoes. Issues as to storage stability and taste are of considerable importance. Accordingly, oil-cooked or baked potatoes having good texture and storage stability are sought.

The present invention addresses this problem by providing for oil-cooked or oil-baked potato which comprises 3-50% by weight of an oil or fat composition comprising 2 wt% or

less of monoglyceride and 15 to < 50 wt% of a diglyceride having, **as a constituent fatty acid, 15-100% of a  $\omega$ 3 unsaturated fatty acid having less than 20 carbon atoms.**

Applicants discovered that such an oil or fat composition provides for an oil-cooked or baked potato of good flavor and storage stability. Such an oil-cooked or oil-baked potato is nowhere disclosed or suggested in the cited prior art of record.

The rejection of Claims 1-7 under 35 U.S.C. § 102(b) over Yokomichi et al. U.S. 5,504,405 is respectfully requested.

Yokomichi fails to disclose or suggest an oil for a fat composition in which the diglyceride component has as a constituent fatty acid, 15-100 % of a  $\omega$ 3 unsaturated fatty acid having less than 20 carbon atoms.

Yokomichi et al. describes a frying oil or fat composition comprising no more than 4 wt.% of an emulsifier (col. 2, lines 31-34). The frying oil is described beginning at col. 8, line 1 as containing 5-50% by weight of a diglyceride. The fatty acid moieties of the glyceride are described as having 8-24 carbon atoms, not less than 70 wt% of which are unsaturated fatty acids (col. 8, lines 16-20). No where in the reference is it suggested to use as constituent fatty acids of the diglyceride, 15-100% by weight of  **$\omega$ 3 unsaturated fatty acids having less than 20 carbon atoms.**

In contrast, the present invention is directed to an oil-cooked or baked potato in which the constituent fatty acids of the diglycerides are 15-100% by weight of  $\omega$ 3 unsaturated fatty acids having less than 20 carbon atoms. The claim limitation of 15-100 wt% of the fatty acid constituents of the diglyceride being  $\omega$ 3 unsaturated fatty acids having less than 20 carbon atoms is **a claim limitation** which is no where disclosed or suggested in the cited prior art reference. Accordingly, the present invention is clearly neither anticipated nor made obvious from this reference and accordingly withdrawal of the rejection under 35 U.S.C. § 102(b) is respectfully requested.

Applicants note, that the reference describes the use of an emulsifier (col. 4, line 31) and that preferred emulsifiers are esters having an esterification percentage in a range of 20-70% (col. 5, lines 24-26). Preferred esters are sugar fatty acid esters containing at least 50 wt% of unsaturated fatty acids such as linolenic acid (col. 5, lines 31-37). Accordingly, while the reference describes a composition which may contain a linolenic acid moiety, the reference describes the linolenic acid moiety as **the ester component of a sugar fatty acid ester** which is used as an emulsifier. The reference no where discloses or suggests that the constituent fatty acids **of the diglyceride component** of the oil or fat composition comprise 15-100% by weight of an  $\omega$ 3 unsaturated fatty acid having less than 20 carbon atoms.

The provisional rejection of claims 1-7 under the judicially created doctrine of obviousness-type double patenting over claims 1-20 of co-pending application 10/343,831 is respectfully traversed.

Applicants respectfully submit that claims 1-20 of US 10/343,831 no where disclose or suggest an oil-cooked or baked potato and accordingly cannot make obvious the claimed invention directed to an oil-cooked or baked potato. Claims 1-20 of 10/343,831 are published in US 2003/0198272. As there is no disclosure of **an oil-cooked or baked potato**, the claims of US 10/343,831 fail to disclose the claim limitation of a potato and accordingly the present claims are not obvious from the claims of the co-pending application. Accordingly withdrawal of the provisional rejection the judicially created doctrine of obviousness-type double patenting is respectfully requested.

Moreover, as U.S. 10/343,831 has not actually issued as a patent, this provisional rejection should be withdrawn, and addressed, if necessary in U.S. 10/343,831 (MPEP 804(I)(B)).

The rejection of claims 1-7 under 35 U.S.C. § 112, second paragraph has been obvious by appropriate amendment.

Applicants have now amended the claims to recite "an oil-cooked or baked potato which comprises, to clarify that the invention is directed to an oil-cooked or an oil-baked potato comprising an oil or fat composition. In view of Applicants' amendment, withdrawal of this ground of rejection is respectfully requested. Applicants submit this application is now in condition for allowance and early notification of such action is earnestly solicited.

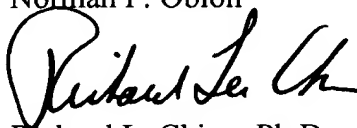
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